

June 8, 1995

DOCKET NO. P-999/CI-87-697

ORDER GRANTING CERTAIN TIME EXTENSIONS, DENYING CERTAIN TIME
EXTENSIONS, AND REQUIRING FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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In the Matter of an Investigation into
IntraLATA Equal Access and Presubscription

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PROCEDURAL HISTORY

On July 21, 1994, the Commission issued its ORDER SETTING IMPLEMENTATION GUIDELINES FOR INTRALATA 1+ PRESUBSCRIPTION in the above-captioned matter. In that Order the Commission established a schedule for the implementation of intraLATA 1+ equal access and presubscription for Minnesota local exchange carriers (LECs) which did not currently provide the service. The Commission set a January 1, 1997, deadline for full implementation of intraLATA 1+ presubscription by Minnesota LECs. This deadline corresponded with a deadline the Commission had previously established for LEC implementation of **inter**LATA 1+ equal access.¹ The Commission also required LECs to provide intraLATA 1+ equal access within 18 months of receipt of a bona fide request (BFR) for the service from an interexchange carrier (IXC). LECs presented with a BFR were required to respond to the IXC with an implementation timetable within 60 days of receipt of the BFR. The Commission gave some flexibility to LECs by allowing them to file for waivers from the BFR-triggered deadline or the overall deadline of January 1, 1997.

On November 3, 1994, the Commission issued its ORDER DENYING REQUESTS FOR RECONSIDERATION, DENYING REQUEST FOR STAY, AND GRANTING EXTENSION

¹ In the Matter of a Commission Initiated Investigation to Establish Requirements for the Telecommunications Infrastructure in Minnesota, Docket No. P-999/CI-93-1176, ORDER APPROVING SHORT-TERM AND INTERMEDIATE INFRASTRUCTURE RECOMMENDATIONS AS MODIFIED AND ESTABLISHING A COMMENT PERIOD (May 19, 1994).

OF DEADLINE. In that Order the Commission granted LECs a 30-day extension to their original 60-day deadline for response to a BFR.

On August 15 and 25, 1994, MCI Telecommunications Corporation (MCI) and AT&T submitted BFRs to all Minnesota LECs not yet providing intraLATA 1+ equal access. The deadline for intraLATA implementation was thus established as February, 1996, for all LECs not receiving a waiver from the Commission.

Between September 26 and November 21, 1994, the Commission received requests for waivers from the deadline for implementation of intraLATA 1+ equal access from the following LECs: Century Telephone of Northwest Wisconsin (Century), Lismore Cooperative Telephone Company (Lismore), Sprint/United Telephone Company-Midwest (United), Woodstock Telephone Company (Woodstock), Frontier Communications of Minnesota (Frontier), Danube Telephone Company (Danube), Mid-State Telephone Company (Mid-State), Winsted Telephone Company (Winsted), GTE Minnesota (GTE), US WEST Communications, Inc. (US WEST), Madelia Telephone Company (Madelia), and Western Telephone Company (Western).²

On December 14, 1994, the Department, MCI and AT&T submitted comments in response to the waiver requests.

On December 27, 1994, US WEST, GTE and the Department filed reply comments.

On May 25, 1995, the matter came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

I. INTRODUCTION

The facts and circumstances of the various waiver requests were individual to each company. The Department recommended approval of some requests and denial of others. The commenting IXCs did not object to most requests but vigorously opposed some. The Commission will take up each request separately.

II. DANUBE TELEPHONE COMPANY

Danube stated that it had previously made a business decision not to join the Minnesota

² Century Telephone of Chester also submitted a request for a waiver from the implementation deadline for both intraLATA and interLATA 1+ equal access. This request is being considered separately in Docket No. P-999/CI-93-1176; P-999/CI-87-697.

Independent Equal Access Corporation (MIEAC) centralized equal access service. Danube stated that it is not capable of providing intraLATA 1+ service with its present switch. To upgrade the switch by February, 1996, would cost approximately \$184,000 and would result in an estimated retirement loss of \$96,000. Danube proposed offering intraLATA 1+ equal access in approximately June, 2000, when it plans to change out its present switching platform.

MCI and AT&T did not object to Danube's proposal. The Department opposed the proposal, arguing that Danube should reconsider subscribing to MIEAC.

The Commission finds that Danube has provided sufficient cost information to justify its waiver request. The Commission sees no reason to require Danube to again consider joining MIEAC, particularly since neither MCI nor AT&T objected to Danube's proposal. The Commission will order the Company to file an annual update on its plans to provide intraLATA equal access in the future.

III. FRONTIER COMMUNICATIONS OF MINNESOTA

Frontier planned to upgrade all its exchanges to provide intraLATA and interLATA 1+ equal access by January 1, 1997. Because 12 exchanges would not be upgraded to provide intraLATA 1+ equal access by the BFR-driven deadline of February, 1996, Frontier requested a waiver for those exchanges. If no waiver were granted, Frontier would be forced to hire additional personnel or outside contractors to complete the upgrade on time.

Neither MCI nor AT&T objected to Frontier's proposal. The Department recommended that the Commission grant Frontier the requested waiver.

The Commission will grant Frontier a waiver of the 18 month BFR deadline for providing intraLATA 1+ service in the 12 exchanges which will be upgraded in 1996. Frontier has planned a prompt and thorough response to the deadlines imposed by the Commission. By the end of 1995, over 95% of the access lines served by Frontier will have intraLATA equal access. The Commission will not penalize the Company for failing to provide intraLATA equal access to the remaining 12 exchanges. The Commission will allow Frontier until January 1, 1997, to implement intraLATA equal access in the 12 exchanges.

IV. GTE

GTE requested a waiver of the deadline to provide intraLATA equal access in its 116 exchanges in Minnesota. GTE stated that it would not have obtained and tested the necessary software by February, 1996, and thus could not begin implementation of intraLATA presubscription before that time. GTE repeated past requests that it not be required to furnish intraLATA presubscription before federal restrictions on Regional Bell Operating Companies' (RBOCs') and GTE's provision of interLATA service are lifted.

AT&T and MCI opposed granting GTE a blanket waiver of the intraLATA 1+ implementation deadline. The IXC's stated that there is nothing unique in GTE's situation which would justify a delay in implementation.

At the May 25, 1995, hearing, GTE and MCI expressed general satisfaction with a plan by which most GTE exchanges would be converted by the February, 1996, deadline. AT&T did not object to the plan. GTE continued to state that implementation should not be required prior to federal resolution of the interLATA service issue affecting RBOCs and GTE.

The Commission will allow GTE a staggered deadline for full implementation of intraLATA equal access. First, for 22 exchanges GTE has previously been allowed an extension of the January 1, 1997, deadline for implementation of interLATA equal access until later in 1997 and 1998.³ The Commission will grant a parallel time extension for implementation of intraLATA equal access in the 22 exchanges.

Second, GTE has indicated that it will be implementing a modernization plan to convert ten exchanges to digital during 1996.⁴ The Commission will grant GTE an extension until January 1, 1997, to provide intraLATA equal access in those 10 exchanges.

Third, 75 of the remaining 84 GTE exchanges are currently digital and nine will be converted in 1995. The Commission will require GTE to meet the February, 1996, deadline for providing intraLATA 1+ equal access in those 84 exchanges.

In its July 21 and November 3, 1994, Orders, the Commission thoroughly answered GTE's requests for a delay pending the possible lifting of federal restrictions on RBOCs' and GTE's interLATA service. This issue was argued before the Minnesota Court of Appeals. On June 6, 1995, the Minnesota Court of Appeals issued a decision refusing to require contested case proceedings on the issue of the relationship between intraLATA 1+ equal access and congressional consideration of the current ban on RBOC participation in interLATA competition.⁵ The Commission feels no need to address this issue again in this docket.

³ In the Matter of a Commission Initiated Investigation to Establish Requirements for the Telecommunications Infrastructure in Minnesota, ORDER APPROVING GTE MINNESOTA'S MODERNIZATION PLAN AND REQUIRING PROGRESS REPORTS, Docket No. P-999/CI-93-1176 (February 21, 1995).

⁴ The ten exchanges are Alvarado, Bigelow, Claremont, Cosmos, Cottonwood, Cromwell, Floodwood, Herman, Wanamingo, and West Concord.

⁵ Slip opinion, Minnesota Court of Appeals, File No. C1-94-2429; C4-94-2439.

V. LISMORE COOPERATIVE TELEPHONE COMPANY

Lismore submitted a proposal under which it would convert to interLATA and intraLATA equal access in the fourth quarter of 1996 for its 325 subscribers. An extension of the intraLATA equal access deadline until January 1, 1997, would allow Lismore sufficient time to evaluate a choice between upgrading its existing switch or installing a new digital switchboard.

Neither MCI nor AT&T objected to Lismore's request for a time extension. The Department recommended denial of the request, because it considered that an additional six months were not necessary to investigate and evaluate the Company's options.

The Commission will grant Lismore's request for a time extension until January 1, 1997. The time extension will allow this small telephone company to provide intraLATA equal access service at the same time it converts to interLATA service under the interLATA deadline. The Commission also notes that neither commenting IXC objected to the delay in implementation.

VI. MADELIA TELEPHONE COMPANY

Madelia received a BFR from MCI on August 12, 1994; this action created a February 12, 1996, deadline for Madelia to implement intraLATA equal access. Madelia has signed a contract with MIEAC under which MIEAC will provide both interLATA and intraLATA equal access on February 17, 1996. Madelia will therefore need a five day time extension of its deadline to provide intraLATA equal access. The Commission will grant Madelia an extension until February 17, 1996.

VII. MID-STATE TELEPHONE COMPANY

Mid-State filed a waiver request for intraLATA 1+ equal access service to seven of its nine exchanges. Mid-State is currently planning to replace its host switch in the year 2000. The Company explained that it did not wish to move the conversion date up because right-to-use fees for intraLATA software and customer education and balloting costs would total approximately \$31,700.

Although MCI and AT&T did not object to Mid-State's waiver request, AT&T had not received all the Company's information at the time of its comments.

The Department recommended that the Commission deny Mid-State's request for a waiver. The Department noted that conversion costs would only total approximately \$32,000 for the 2,870 access lines in the Company's seven unconverted exchanges.

The Commission agrees with the Department's reasoning and recommendation. The projected costs, which are relatively reasonable, would not be avoided if the Company delayed conversion

until 2000. The Commission will deny Mid-State's waiver request.

VIII. CENTURY TELEPHONE OF NORTHWEST WISCONSIN

Century serves approximately 120 subscribers in Cloverton and West Danbury, Minnesota through a switch from the Dairyland and Danbury exchanges in Wisconsin. Century requested a waiver to the intraLATA equal access implementation deadline so that it may coordinate with the intraLATA presubscription requirements of the Wisconsin Public Service Commission (WPSC). To date, the WPSC has ordered intraLATA 1+ equal access but implementation has been deferred while the matter is taken up on appeal.

No party objected to Century's request for a waiver.

The Commission will allow Century to coordinate its intraLATA 1+ equal access implementation with the results of the WPSC proceeding. The Commission will require the Company to file new tariffs within 60 days of a final implementation decision by the WPSC. In the meantime, the Commission will require Century to file an annual report on the status of intraLATA 1+ equal access proceedings in Wisconsin.

IX. SPRINT/UNITED TELEPHONE-MIDWEST

On February 21, 1995, the Commission granted an extension of the deadline for providing interLATA equal access for 14 of United's 45 exchanges. These exchanges comprise 11.3 percent of United's access lines.⁶ In the February 21 Order, the Commission granted United's proposal for a staggered implementation of interLATA 1+ equal access through 1996, 1997, and 1998.

United asked for a parallel waiver of the intraLATA implementation deadline. United explained that the impact of meeting the February, 1996, conversion deadline would be \$2,925,700 in actual expenditures or almost \$4 million in present value terms. This cost, combined with other substantial recent costs and recent reductions in rates and charges, could have an adverse impact on rates.

Neither the Department, MCI, nor AT&T objected to United's waiver request.

The Commission will grant United its request for a time extension to implement intraLATA 1+ equal access. The Company's cost filings show that requiring implementation by the

⁶ In the Matter of a Commission Initiated Investigation to Establish Requirements for the Telecommunications Infrastructure in Minnesota, Docket No. P-999/CI-93-1176, ORDER APPROVING UNITED TELEPHONE COMPANY'S MODERNIZATION PLAN AND REQUIRING PROGRESS REPORTS.

February, 1996, deadline would not be in the best interests of ratepayers overall. Allowing the Company to follow its interLATA 1+ implementation schedule for the provision of intraLATA 1+ equal access will provide a logical and cost-beneficial method of expanding equal access.

X. US WEST COMMUNICATIONS

US WEST is currently offering for sale 32 of its exchanges, representing about two percent of its total access lines.

US WEST filed a request for a delay of the implementation deadline for the 32 exchanges until January 1, 1997, or if necessary until after the sales had taken place. US WEST argued that the February, 1996, implementation deadline could further complicate sale negotiations which would already be detailed and complicated. According to US WEST, it should not be required to invest in intraLATA equal access equipment which prospective buyers may not want or need. US WEST stated that purchasers would have more opportunities to avail themselves of equal access options such as MIEAC.

AT&T and MCI opposed US WEST's waiver request. Both companies stated that the fact that the 32 exchanges are being offered for sale is not relevant to the implementation deadline. The Commission established an implementation deadline because it felt that equal access was in the public interest; US WEST's customers in the 32 exchanges should not have to wait longer than other customers to reap the benefits of equal access. If the Commission grants a blanket time extension for the 32 exchanges, even the overall deadline of January 1, 1997, might not be met.

While the Department agreed with US WEST that the February, 1996, deadline should not be applied, it did not believe that the Commission should extend the implementation deadline for the 32 exchanges until January 1, 1997. The Department recommended a compromise--each exchange purchaser would be required either to submit a timetable for the provision of intraLATA 1+ equal access or to request a waiver of the February, 1996, implementation date.

The Commission agrees with the Department that a compromise is the most appropriate policy in this case. The interests of US WEST in effecting the transfers of these exchanges must be balanced with the interests of the ratepayers in obtaining the benefits of equal access. While the Commission does not wish to hamper US WEST's transfer of the 32 exchanges, neither does the Commission have an obligation to adjust its intraLATA equal access policy in order to promote the sales.

The Commission will not act on US WEST's requests for waivers for the 32 exchanges at this time. As a purchase agreement is reached, the parties will be required to file information regarding the date of intraLATA equal access implementation, along with any necessary waiver requests, with the Commission. The Commission will be able to consider the individual waiver requests at the time it considers the proposed sales.

Because the timing of the proposed sales is as yet uncertain, the Commission will place some time parameters on US WEST's actions. US WEST will be required to file a status report regarding the sale of the exchanges within 90 days of this Order. The report must contain information on any exchange for which a request for sale approval, containing the required 1+ equal access information, has not been filed.

The Commission will also require that full implementation of intraLATA 1+ equal access be achieved for the 32 exchanges, regardless of their sale status, by January 1, 1997.

XI. WESTERN TELEPHONE COMPANY

Western requested a waiver of the implementation deadline to January 1, 1997, so that it could complete conversion to intraLATA 1+ equal access in the fourth quarter of 1996.

Neither AT&T nor MCI opposed Western's proposal. The Department stated that the waiver request is reasonable and should be granted.

The Commission finds that this relatively small telephone company is making a good faith effort to comply with Commission requirements. Adjustment of the intraLATA equal access deadline to January 1, 1997, will allow Western to implement both intraLATA and interLATA 1+ equal access by the Commission's January 1, 1997, deadline in the infrastructure docket. The Commission will grant Western an extension of the deadline for intraLATA equal access implementation until January 1, 1997.

XII. WINSTED TELEPHONE COMPANY

Winsted requested a time extension until September, 1997, for the provision of intraLATA 1+ equal access. According to Winsted's estimate, implementation by the BFR deadline would cost \$18,000 for right-to-use fees, \$28,700 for customer balloting and education, \$100,000 for upgrading the existing switch, and \$256,000 in retirement loss for the switch upgrade.

Neither MCI nor AT&T objected to Winsted's proposal.

The Department recommended that the Commission reject Winsted's request for a time extension until September, 1997. The Department noted that the Commission had recently

granted Winsted an acceleration of its depreciation schedule for its outdated switch.⁷ The Department recalculated the retirement loss using the accelerated depreciation schedule and found that the Company would experience a retirement loss of \$96,000 if it met the February 15, 1996, BFR-driven deadline. Under the accelerated depreciation schedule, the switch would be entirely depreciated by January 1, 1997. The Department recommended granting Winsted a time extension until January 1, 1997, to implement intraLATA 1+ equal access.

The Commission agrees with and adopts the Department's reasoning. Under the accelerated depreciation schedule authorized by the Commission, the Company will not suffer a depreciation loss if it implements intraLATA equal access by January 1, 1997. The other costs cited by the Company will remain approximately the same regardless of the implementation date. The Commission will grant Winsted a time extension until January 1, 1997, to implement intraLATA 1+ equal access.

XII. WOODSTOCK TELEPHONE COMPANY

Woodstock filed a request for a time extension until December 31, 1996, in which to provide intraLATA 1+ equal access to its 1,250 customers. Woodstock submitted a modernization plan under which it would replace its outdated switches in stages from 1995 through the third quarter of 1996.

Neither MCI nor AT&T objected to Woodstock's waiver request. The Department stated that the Company's request is reasonable and should be granted.

The Commission agrees with the Department that Woodstock should be allowed a time extension until December 31, 1996, in which to complete implementation of intraLATA 1+ equal access. The Company is making a good faith effort to convert its outdated switches under a logical schedule. A December 31, 1996, deadline should allow the Company sufficient time to change the equipment and make the transition to equal access. The Commission will grant the Company's request.

ORDER

1. Danube Telephone Company is granted its request for a waiver to provide intraLATA 1+ equal access until it upgrades its switch, but no later than June, 2000. Danube shall file annual updates on its plans to provide intraLATA equal access in the future, starting one year from the date of this Order.

⁷ Docket No. P-573/D-94-999, January 10, 1995.

2. Frontier Telephone Company is granted an extension until January 1, 1997, to provide intraLATA 1+ equal access in the 12 exchanges which will be upgraded in 1996.
3. GTE is granted an extension to provide intraLATA 1+ equal access to the 22 exchanges which were granted an interLATA implementation extension until December 31, 1997, and December 31, 1998 in Docket No. P-999/CI-93-1176. GTE is granted an extension until January 1, 1997, to provide intraLATA equal access in the ten exchanges scheduled to convert to digital in 1996. GTE must provide intraLATA 1+ equal access in its remaining 84 exchanges by mid-February, 1996.
4. Lismore Cooperative Telephone Company is granted its request for an extension until January 1, 1997, to provide intraLATA 1+ equal access.
5. Madelia Telephone Company is granted an extension until February 17, 1996, to provide intraLATA 1+ equal access.
6. Mid-State Telephone Company's request for a time extension is denied. Mid-State is required to provide intraLATA 1+ equal access by mid-February, 1996, and to file its proposed implementation plan with the Commission within 60 days of the date of this Order.
7. Century Telephone of Northwest Wisconsin is granted its request to coordinate its implementation of intraLATA 1+ equal access with the schedule adopted by the Wisconsin Public Service Commission. The Company shall file new tariffs within 60 days of a final implementation decision by the WPSC. The Company shall file an annual report, starting one year from the date of this Order, on the status of intraLATA 1+ equal access proceedings in Wisconsin.
8. United is granted its request for a waiver to provide intraLATA 1+ equal access in accordance with the United modernization plan approved by the Commission in Docket No. P-999/CI-93-1176. Under this plan, the Buffalo Lake, Elgin, Eyota, Plato, and Zumbro Falls exchanges would be converted to equal access by December 31, 1996; the Brownton, Lake City, Lester Prairie, and New Richland exchanges would receive equal access by December 31, 1997; the Granite Falls, Grove City, Millville, Rollingstone, and Waldorf exchanges would receive equal access by December 31, 1998.
9. The Commission neither grants nor denies US WEST's waiver requests for the 32 exchanges currently being offered for sale. At the time purchase agreements for any of those 32 exchanges are filed with the Commission, the potential buyer must also file a proposed schedule for implementation of intraLATA 1+ equal access in the exchange and request a waiver or extension, if necessary. No extension will be granted beyond January 1, 1997. US WEST shall file a status report regarding the sale of the exchanges within 90 days of this Order. The report must contain information on any exchange for which a request for sale approval, containing the required 1+ equal access information,

has not been filed.

10. Western Telephone Company is granted its request for an extension until January 1, 1997, to provide intraLATA 1+ equal access.
11. Winsted Telephone Company is granted its request for an extension until January 1, 1997, to provide intraLATA 1+ equal access.
12. Woodstock Telephone Company is granted an extension until January 1, 1997, to provide intraLATA 1+ equal access.
13. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)